



OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

July 31, 1975

*R75-18*  
BRUCE E. BABBITT  
ATTORNEY GENERAL

*75-233*

*P*

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

Mr. Dick Smith  
Chairman of the Board  
Arizona Coliseum and Exposition Center  
P. O. Box 6715  
Phoenix, Arizona 85005

Dear Mr. Smith:

Sometime ago you requested an opinion from this office on the following question:

Is the payment of moneys owed to  
creditors of lessees of the Coliseum  
from the ticket sales account valid  
under A.R.S. § 3-1005?

The answer is "No". A.R.S. § 3-1005 designates three types of accounts or funds that are authorized to be maintained in relation to operations of the Coliseum and Exposition Center Board. One is the Arizona Coliseum and Exposition Center fund. The moneys to be placed in this fund are:

Moneys received by the board, other than those referred to in paragraph eight of § 3-1003 and other than those received by the board as ticket sales pursuant to a valid lease of the coliseum, . . . A.R.S. § 3-1005.A.

Moneys belonging in this fund, i.e., all moneys other than those received under A.R.S. § 3-1003 and ticket sales moneys under a lease of the Coliseum, must be deposited forthwith in the State Treasury. Disbursals from this fund are made by claims approved by the Board and presented for payment to the Assistant Director for the Division of Finance who issues his warrant which, when presented to the state treasurer, is paid from the fund.

The second type referred to in paragraph eight of A.R.S. § 3-1003 is a private fund which must be handled pursuant to A.R.S. § 35-149.

The third type, and the one with which we are concerned here, is a ticket sales account of money received pursuant to a Coliseum lease. Ticket receipts from such leases may be deposited in an account in a bank qualified under A.R.S. §§ 35-321 through 35-325.20. There are two pertinent statutory provisions dealing with disbursals from such a bank account:



Mr. Dick Smith  
Page Two  
July 31, 1975

The signature of the executive director or a bonded employee designated by the executive director and the lessee shall be required on any instrument withdrawing such a deposit. A.R.S. § 3-1005.A.

Disbursements from such an account of ticket sales received pursuant to a valid lease of the coliseum as described in subsection A shall be limited to payments of amounts due to lessor or lessee pursuant to said lease. No disbursements from this account shall be made for state wages, salaries or expenses. Upon completion or termination of any lease pursuant to subsection A, all monies accruing to the board shall be deposited promptly with the state treasurer as provided by law. A.R.S. § 3-1005.B.

A.R.S. § 3-1005.B is clearly addressed to the issue before us. Although the disbursements directly to creditors of lessees are derived from amounts that are owing to the lessee, the "plain meaning" of the statute would suggest that such disbursements are not authorized. If we were to adopt an interpretation that allowed disbursements directly to creditors of leases from this account, subsection B would have no meaning.

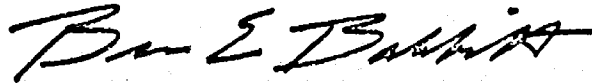
It has been suggested that the present system of payments of amounts due to creditors of leases to those credits protects Arizona creditors from defaults of an out-of-state promoter or lessee. Further, it is suggested that control of the bank account by the Coliseum Board and the lessee will protect the State. The first statement is undoubtedly true. The second is an assertion that the present procedure insures against state liability. The law is not as clear as that statement might suggest.

Although, but not likely, the possibility perhaps exists nevertheless that someone could present an instrument to a bank and wrongfully receive payment. Under a given set of circumstances the bank could be liable and the State of Arizona also could be liable for the wrongful payment. Present procedures would not protect against liability on the part of the Board if the statute were interpreted to allow payments to others than the Board and the lessee. Therefore, in our view, payments to creditors of the

Mr. Dick Smith  
Page Three  
July 31, 1975

promoter-lessee are not allowed under A.R.S. § 3-1005 from a ticket sales bank account.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bruce E. Babbitt". The signature is fluid and cursive, with the first name "Bruce" being more prominent and the last name "Babbitt" following in a similar style.

BRUCE E. BABBITT  
Attorney General

BEB:FWS:ss